

motions.” Motion at 6-7. Landowners argue in their Emergency Motion that a “single deadline for all defendants to respond to” MVP’s Motion for Expedited Hearing would promote “principles of judicial economy for the Court.” Emergency Motion at ¶ 10. According to Landowners, any briefing schedule should be based upon the “completion of service date” of the defendants.¹ *Id.* ¶ 11. Landowners further contend that MVP’s Motions for Partial Summary Judgment are “premature.” *Id.* ¶ 9 n.3.

On November 9, 2017, the Court entered an Order setting a deadline of December 4, 2017 for all defendants to respond to MVP’s Motions for Partial Summary Judgment and Immediate Access and Motion for Expedited Hearing, setting a preliminary scheduling and status conference for November 16, 2017, and requesting that MVP respond to Landowner’s Emergency Motion by November 15, 2017 [ECF No. 17]. The Court’s scheduling of the December 4, 2017, response deadline for MVP’s pending motions moots, in part, the Emergency Motion. The sole remaining issue is the scheduling of a hearing on MVP’s pending Motions for Partial Summary Judgment and Immediate Access.

As set forth in MVP’s Motion for Expedited Hearing [ECF No. 8], a hearing on MVP’s pending Motions for Partial Summary Judgment and Immediate Access should be held no later than December 13, 2017, or as soon thereafter as accommodates the Court’s schedule. MVP’s Motions for Partial Summary Judgment and Immediate Access seek a determination from the Court as to (1) MVP’s authority to condemn and (2) its right to immediate access to and possession of the property interests held by defendants and condemned in this action. In its

¹ On November 8, 2017, MVP filed a status report with the Court confirming that, as of the date of filing, 104 of the defendants had been personally served, with 28 additional defendants to be served by publication in accordance with Fed. R. Civ. P. 71.1(d)(3)(B) [ECF No. 15]. As of the date of filing of this Response, a total of 127 defendants have been personally served in accordance with Fed. R. Civ. P. 71.1(d)(3)(A). Service by publication in all nine counties affected by the MVP Project has been commenced as to the 28 defendants and will be completed as of December 6, 2017.

memoranda in support of the Motions, MVP sets out the facts justifying immediate relief. Despite Landowners' contention that MVP's pending summary judgment motions are "premature," under Fed. R. Civ. P. 56, a motion for summary judgment may be filed "at any time until 30 days after the close of all discovery." Fed. R. Civ. P. 56. Federal Rule of Civil Procedure 65, which governs motions for preliminary injunction, also does not preclude the filing of a motion for preliminary injunction at this stage and, in fact, "provides express authority for consolidating the hearing of an application for a preliminary injunction with the trial on the merits." *See* Fed. R. Civ. P. 65(a)(2) advisory comm. n. As such, Landowners' contention that MVP's motions are "premature" is inapposite and contradicts the very purpose of seeking preliminary injunctive relief.

In the Emergency Motion, Landowners also question whether "Plaintiff's chosen strategy complies with the procedures approved by the United States Court of Appeals for the Fourth Circuit in *East Tennessee Natural Gas Co. v. Sage*, 361 F.3d 808 (4th Cir. 2004)." Emergency Motion ¶ 12. In *Sage*, the Fourth Circuit Court of Appeals established a two-step procedure for granting access prior to the determination of just compensation in a condemnation case: (1) establish the right to condemn and (2) prove the requirements for injunctive relief. *See Sage*, 361 F.3d at 831 ("[O]nce a district court determines that a gas company has the substantive right to condemn property under the [Natural Gas Act], the court may use its equitable power to grant the remedy of immediate possession through the issuance of a preliminary injunction."). Here, MVP is simply following the procedure established by the Fourth Circuit Court of Appeals in *Sage*—MVP's motion for partial summary judgment seeks to establish MVP's substantive right to condemn the property under the Natural Gas Act as the first step to its request for immediate possession. The scheduling of a hearing on or before December 13, 2017, approximately seven

weeks after the filing of MVP's Complaint, is consistent with principles of judicial economy and would serve to prevent the potential for irreparable harm outlined in MVP's motions and memoranda in support. *See Columbia Gas Transmission, LLC v. 171.54 Acres*, No. 2:17-cv-70, 2017 WL 838214 (S.D. Ohio Mar. 3, 2017) (holding a hearing four weeks after filing of complaint); *Sabal Trail Transmission, LLC v. 1.44 Acres*, No. 5:16-cv-164, 2016 WL 2991151 (M.D. Fla. May 24, 2016) (holding a hearing within eight weeks after filing of complaint); *Columbia Gas Transmission LLC v. 0.85 Acres*, No. CV 14-2288, 2014 WL 4471541 (D. Md. Sept. 8, 2014) (holding a hearing within seven weeks after filing of complaint).

As the response deadline for MVP's pending motions has already been scheduled for December 4, 2017, MVP requests that this Court allow MVP to file any reply by December 11, 2017 and proceed to a hearing on or before December 13, 2017, or as soon thereafter as suits the Court's schedule.

November 15, 2017

REED SMITH LLP

/s/ Nicolle R. Snyder Bagnell
Nicolle R. Snyder Bagnell
W.V. I.D. No. 11081
Reed Smith Centre
225 Fifth Avenue
Pittsburgh, PA 15222
(412) 288-3131
nbagnell@reedsmith.com

Counsel for Plaintiff
Mountain Valley Pipeline, L.L.C.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been served via U.S. First Class Mail upon the individuals identified on the attached Service List.

Dated: November 15, 2017

/s/ Nicolle R. Snyder Bagnell

SERVICE LIST

The undersigned hereby certifies that a true and correct copy of the foregoing has been served upon the following via U.S. First Class Mail:

D. Lane McMillion P. O. Box 633 Craigsville, WV 26205-0633	Ervin E. Richmond 136 Rockhill Dr. Alderson, WV 24910
D. Lane McMillion and Dale L. and Alicia D. McMillion P. O. Box 633 Craigsville, WV 26205-0633	Gerald K. Richmond 941 Bun Fink Road Alderson, WV 24910
Paco Land, Inc. 196 Middletown Road Richwood, WV 26261-1028	Jesse James Richmond 707 Freezeland Mountain Rd. Hinton, WV 25951
Brian and Beth Armstrong 312 Ritchie Farm Road Summersville, WV 26651-4521	Carolyn S. Walls PO Box 82 Coal Mountain, WV 24823-0082
Bruce A. and Kimberly Roberts PO Box 321 Nettie, WV 26681-0321	Richard Dean Ward 124 Maryville MBL Alcoa, TN 37701
Todd E. White 1584 North Hill Drive Rockwall, TX 75087-3237	Kerry N. and Cheryl L. Boone 110 Perry Boone Lane Alderson, WV 24910-1501
Tamara L. White Delong 5345 Germaine CT Colorado Springs, CO 80919-7935	Ashby A. and Emma Jean Boone and Dorothy Marie Boone Fogle 34 Orchard Tree Drive Front Royal, VA 22630-5808
Virginia D. and Connie McClung 453 Power Plant Rd Summersville, WV 26651-2031	Mark Grey Smith 1036 Ficklen Road Fredericksburg, VA 22405-2102
Artie Orlena Robinson and David Lane Robinson 5907 Ward Road Nettie, WV 26681-4563	Tammy A. Capaldo and Caitlyn A. Gragg PO Box 58 Alderson, WV 24910-0058

Quinwood Coal Company f/k/a Alex Energy, LLC f/k/a Alex Energy, Inc. f/k/a Green Valley Coal Company, LLC 1415 Louisiana Street Suite 2400 Houston, TX 77002-7361	Wiseman Living Trust Gene and Phyllis M. Wiseman 7507 Walton Lane Annandale, VA 22003-2558
Estate of C. L. Keener 118 Dawson Road Meadow Bridge, WV 25976-9424	Robert Jackson Holt 1611 Smith Bridge Road Chadds Ford, PA 19317-9765
James Keener 38692 Adains Road Willoughby, OH 44094	Philip J. Harrah 78 Starling Lane Sandstone, WV 25985-9419
Johnnie Ray Keener, Brandi Nicole Keener, and David Harmon 118 Dawson Road Meadow Bridge, WV 25976-9424	Meadow Creek Coal Corporation 263 White Oak Drive Beckley, WV 25801-8133
Thomas Keener 2929 Dawson Road Meadow Bridge, WV 25976	Kiranasa Swami RR 1 Box 278-B Meadow Bridge , WV 25976-9514
Clyde Fox, Michael Fox, Naomi J. Fox, and Robert W. Fox P. O. Box 646 Leslie, WV 25972-0646	Gregory L. Berry 1211 New River Road Hinton, WV 25951-8125
Naomi J. and Robert W. Fox 386 Clifftop Loop Road Danese, WV 25831-7273	Charles D. Simmons Estate Sharon G. Simmons P.O. Box 65 Lester, WV 25865-0065
Rex Coal Land Company PO Box 564 Lewisburg, WV 24901-0564	Bryan Charles Simmons 11 Red Fox Trail Euharlee, GA 30145
Silas Steven and Laurel Tucker 5354 Forest Brook Drive Milton, FL 32583-6224	Joshua Simmons 1741 Barkers Ridge Stephenson, WV -9613

Jeffrey Dewayne Osborne 110 Goddard Mountain Road Rainelle, WV 25962-6860	Joshua Simmons and Jerry L. Cannady 1741 Barkers Ridge Stephenson, WV -9613
Unknown Heirs of Martha I. Kessler Unknown Address	Red Hawk Trust Robert C. Pierson, III and Vicki L. Pierson PO Box 51 Walkersville, WV 26447-0051
Unknown Heirs of Mary L. Surbaugh Unknown Address	William G. Lloyd 4350 Sutton Lane Sutton, WV 26601-9717
Unknown Heirs of Nora E. Vandall Unknown Address	Chad W. Johnson 109 Platinum Drive, Suite 1 Bridgeport, WV 26330-2007
Unknown Heirs of Azel Ford Zickafoose Unknown Address	Estate of Barbara June Reger Unknown Address
Unknown Heirs of Joseph Orville Zickafoose Unknown Address	Adam L. Matheny 303 Maken Rd Salem, WV 26426-8054
Unknown Heirs of Robert C. Zickafoose Unknown Address	Glenn D. Matheny, II 182 Sugar Mill Loop Myrtle Beach, SC 29588-4630
Doreen S. Allen, Fredereck M. Osborne, Jo Lynn Blankenship, Mickey D. Osborne, and Scott S. Osborne 377 Dark Hollow Rd Rainelle, WV 25962-9713	Gerald Wayne Corder Teresa D Erickson, POA 109 Columbus Street Elyria, OH 44035-5130
Norvel P. and Jean M. Mann, Thomas B. and Hannah G. Mann, and Chloda Crosier 46 Narrows Hans Creek Road Lindside, WV 24951-9606	Randall N. Corder Lorena B. Krafft, POA 720 Park Ave. Elyria, OH 44035
William H. Mann, Lucy G. Booth, Harry L. Mann, Nancy L. Phillips, Donald E. Mann, Carl E. Mann, Larry W. Mann, and Bonnie K. Barberie	Kincheloe Mitigation Holdings LLC 23 South Main St. 3rd Floor Hanover, NH 03755

150 Barberie Lane Princeton, WV 24740-9004	
Rebecca K. Bragg HC 65, Box 10 Wayside, WV 24985-9104	Arthur C. and Judy D. Roberts 158 Point Lick Drive Charleston, WV 25306-6723
John White, II and Shellie White PO Box 120 Greenville, WV 24945-0120	David Finster 4570 Crains Run Road Miamisburgh, OH 45342-6212
Petrie Dobbs Brown 1179 Hans Creek Road Greenville, WV 24945-7016	Donald J. Finster and Paul W. Finster 5900 Homedale Street Dayton, OH 45449-2922
Addison Dunlap Dobbs and Lee Filmore Dobbs, III 1179 Hans Creek Road Greenville, WV 24945-7016	Venice Eileen Finster 2564 Bryan Circle Grove City, OH 43123-3527
Oscar D. Darago 3514 Ellison Ridge Greenville, WV 24945-7035	George Ernest Bright 220 Heritage Point Morgantown, WV 26505-2831
Maury W. Johnson 3227 Ellison's Ridge Greenville, WV 24945	The John A. Bright Revocable Living Trust 909 4th St SE Roanoke, VA 24013-2351
Maury W. Johnson, David Allen Johnson, Wayne Johnson, and Everett Johnson, Jr. 3227 Ellison's Ridge Greenville, WV 24945	William Townsend Bright PO Box 460 Summersville, WV 26651
Clarence Frank Sills, Jr. and Kelley Anne Sandell Sills PO Box 37 Greenville, WV 24945-0037	William H. Brown, Jr. 1316 15th Street Huntington, WV 25701-3622
Norvel P. and Jean M. Mann 46 Narrows Hans Creek Road Lindside, WV 24951-9606	Trustees Under the Will of A. L. Morrison William B. Morrison and Robert J. Morrison 383 Townhill Road Grantsville, WV 26147

James O. Gore 49 Fairview Drive Peterstown, WV 24963-1116	Mary E. Sebring 987 Norwood St. Kent, OH 44240-3476
David R. Hughes 232 Cedar Ridge Farm Road Greenville, WV 24945-0067	Megann M. Sheppard 931 Wayne Drive Winchester, VA 22601-6395
James O. Gore, Barry G. and Lisa B. Meadows, and Zane R. Lawhorn HC 77, Box 19 Peterstown, WV 24963-9604	WMS WVMinerals Trust Jesse Frank Williams IV 1347 E. Kensington Ave Salt Lake City, UT 84105-2653
The Paulette A. Sears Family Trust 222 Navajo Street Tavernier, FL 33070-2119	ICG Eastern, LLC Sheldon Sanders City Place One, Suite 300 St. Louis, MO 63141
Stephen M. and Melanie J. Miller 88 Monroe Ave Peterstown, WV 24963-6720	Western Pocahontas Properties Limited Partnership 5260 Irwin Road Huntington, WV 25705-3247
William S. Broyles Revocable Trust Virginia B. Broyles Revocable Trust Cynthia A. Broyles Morris PO Box 137 Lindside, WV 24951-0137	Brent Fairbanks 1030 Old Town Road Youngstown, OH 44515
Roy P. and Joyce A. Reese 1606 Adair Ridge Road Ballard, WV 24918-5005	Edward "Ted" Charles Smith, Sr. 12191 Deihl Road North Jackson, OH 44451
Trustee of The Lacy H. Toney Farm Trust RR 1, Box 348 Peterstown, WV 24963-9713	Dale Eastham 710 Salt Spring Road Warren, OH 44481-9669
Mountain Lair, LLC Robert Allen 2044 Wilson Mill Road Lindside, WV 24951-4517	Andrew A. Fairbanks 1095 N. Turner Road Youngstown, OH 44515
Dennis F. and Carla D. Fountain 609 Hurd Hollow Road Blackwater, VA 24221-8208	Edward "Teddy" Charles Smith, II 4710 Bailey Road North Jackson, OH 44451

Norvel P. and Jean M. Mann and Thomas B. and Hannah G. Mann 46 Narrows Hans Creek Road Lindside, WV 24951-9606	Michael Fairbanks 8992 New Road North Jackson, OH 44451
Thomas E. and Rosetta B. Toney and Austin B. Toney 48 Sun View Dr. Peterstown, WV 24963-5015	Travis Eastham 3540 Austintown-Warren Road Mineral Ridge, OH 44440
Estate of Dannie Lee Spence Danny Spence, Jr. PO Box 292 Peterstown, WV 24963-0292	Jeremy Collins 1563 Harding Mineral Ridge, OH 44440
Earl C. and Patricia J. Williams 964 Casey Creek Lane Greenville, WV 24945-7037	David Fairbanks 6951 Silica Road Austintown, OH 44515
Roger D. and Rebecca H. Crabtree 2050 Wilson Mill Road Lindside, WV 24951-9721	Todd Edward Smith 12191 Deihl Road North Jackson, OH 44451
Rodger L. and Marjorie Boothe RR 1 Box 24 Lindside, WV 24951-9604	Nancy Jane Shewmake f/k/a Nancy Jane Bates 780 Stouts Run Road Smithfield, WV 26437-8664
Cheryl Bowers PO Box 165 Lindside, WV 24951-0165	Sandra Richmond 5753 Keeney Mountain Road Sandstone, WV 25985-9285
Bonnie Larew Walsh, Gladys Larew Carter, James Tully Larew, and Janet Larew Haag 1581 Back Valley Rd Lindside, WV 24951-9482	Melissa A. Leslie 304 Miller Ave Hinton, WV 25951
Allan Walter Lehr 536 Allters Way Alderson, WV 24910-0079	Anthony D. Richmond 329 Rock Hill Drive Alderson, WV 24910-7143
Heirs of J.H. Harrah P. O. Box 161 Meadow Bridge, WV 25976-0161	Estate of Roger L. Richmond Rhonda Richmond 26 Teal Lane Alderson, WV 24910-9714

<p>Connie Harper P.O. Box 2234 Beckley, WV 25802-2234</p>	<p>Dennis Wayne Richmond 707 Freezeland Mountain Rd. Hinton, WV 25951</p>
<p>Anna R. Ziegler or Elise Keaton Ziegler and Ziegler, LC 110 James Street Hinton, West Virginia 25951</p> <p>Counsel for Defendants:</p> <p>Landcey Ragland, James Robert Persinger, Lillian Sue Persinger, Elora C. McKenzie, Monte G. McKenzie, Anne M. Berkley, and Richard Berkley</p>	<p>Derek O. Teaney Appalachian Mountain Advocates PO Box 507 Lewisburg, WV 24901</p> <p>Counsel for Defendant:</p> <p>Charles F. Chong and Rebecca Ann Eneix-Chong</p>
<p>ISAK HOWELL Isak Howell Law Office 119 Norfolk Ave. SW #330 Roanoke, VA 24011</p> <p>Counsel for Defendants:</p> <p>Orus Ashby Berkley, Reinhard Bouman, Ashofteh Bouman, Charles F. Chong, Rebecca Ann Eneix-Chong, Hilry Gordon, Robert M. Jarrell, Ronald Tobey, Elizabeth Tobey, Brian Van Nostrand, and Helen M. Van Nostrand</p>	

Dated: November 15, 2017

By: /s/ Nicolle R. Snyder Bagnell